

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x : MARVEL WORLDWIDE, INC., : MARVEL CHARACTERS, INC. and : MVL RIGHTS, LLC, : : Plaintiffs, : : - against- : : LISA R. KIRBY, BARBARA J. KIRBY, : NEAL L. KIRBY and SUSAN N. KIRBY, : : Defendants. : -----x	Civil Action No. 10 Civ. 141 (CM) (KNF)
: LISA R. KIRBY, BARBARA J. KIRBY, : NEAL L. KIRBY and SUSAN N. KIRBY, : : Counterclaim-Plaintiffs, : : - against- : : MARVEL ENTERTAINMENT, INC., : MARVEL WORLDWIDE, INC., : MARVEL CHARACTERS, INC., MVL : RIGHTS, LLC, THE WALT DISNEY : COMPANY and DOES 1 through 10, : : Counterclaim-Defendants. : -----x	

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, Declaration of Eli Bard and exhibits thereto, and all prior pleadings and proceedings heretofore had herein, Counterclaim-Defendants Marvel Worldwide, Inc., Marvel Characters, Inc., MVL Rights, LLC, The Walt Disney Company and Marvel Entertainment, Inc. will move this Court, before the Honorable Colleen McMahon, United States District Judge, United States District

Court for the Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, on a date and at a time to be set by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Counterclaims of Counterclaim-Plaintiffs Lisa R. Kirby, Barbara J. Kirby, Neal L. Kirby and Susan N. Kirby with prejudice, and for such other and further relief as this Court may deem just and proper.

Dated: May 24, 2010

By: /s/ James W. Quinn

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